



July 1, 2004

Secretary Terry Tamminen  
California Environmental Protection Agency  
1001 I Street  
Sacramento, California 95814

Advisory Board\*

**Martha Dina Arguello**  
*Physicians for Social Responsibility  
Los Angeles*

**Cynthia Babich**  
*Del Amo Action Committee*

**Bahram Fazeli**  
*Communities for a Better  
Environment*

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*Pacoima Beautiful*

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*Healthy Homes Collaborative*

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Environmental Justice*

**Jesse N. Marquez**  
*Wilmington Coalition for a Safe  
Environment*

**Deborah Milligan**  
*Athens Park Concerned Citizens*

**Denise Ng**  
*Office of Assemblymember  
Judy Chu*

**Shankar Prasad, M.B.B.S.**  
*California Air Resources Board*

**Robina Suwol**  
*California Safe Schools*

**Jane Williams**  
*California Communities  
Against Toxics*

\* Affiliations Provided for  
Identification Purposes Only

Re: Draft Environmental Justice Action Plan - SUPPORT

Dear Secretary Tamminen:

The California Environmental Rights Alliance supports the Cal/EPA proposal to adopt an Environmental Justice Action Plan. You have succeeded in identifying five key issue areas in need of immediate attention. We encourage you to finalize and implement the EJ Action Plan without delay.

We do, however, seek certain amendments to the EJ Action Plan. We have enclosed for your review a mark-up of the draft EJ Action Plan with our suggested revisions. We have also enclosed an explanation of why we suggest changes to some of the key provisions of the plan.

Thank you for moving forward with your effort to address environmental justice needs in California and for considering our comments.

Sincerely,

Joseph K. Lyou, Ph.D.  
Executive Director and  
Member of the Cal/EPA Advisory Committee on Environmental Justice

Enclosure: Mark-Up of Draft Environmental Justice Action Plan  
Notes on Suggested Revisions to EJ Action Plan

Cc: Ms. Tam Doduc and Ms. Malinda Hall

VIA ELECTRONIC MAIL

## DRAFT WORKING DOCUMENT – 5/12/04

### California Environmental Protection Agency Environmental Justice Program DRAFT EJ Action Plan For 2004-2006

#### 1. Provide Guidance on Cal/EPA Precautionary Applications

- a. Convene Precautionary Applications Workgroup *prior to September 30, 2004*
- b. Identify where/how precaution is currently applied in Cal/EPA's environmental programs *by December 31, 2004*, and recommend other areas for application *by April 22, 2005*
- c. Identify *and adopt at least two* reasonable, cost-effective ~~approaches-programs, policies, regulations, or activities incorporating a precautionary approach that could be used to~~ prevent or minimize adverse environmental impacts *by April 22, 2005*
- d. Identify ~~current protocols and practices for~~ *and issue a report on the assumptions relied upon when Cal/EPA conducts risk assessments and the limitations of current risk assessment practices by April 22, 2005* ~~currently conducted and identify areas for EJ consideration~~
- e. Develop guidance for Cal/EPA precautionary applications and recommendations for implementation, *including proposals for policy, regulatory, and statutory changes, by June 30, 2006*
- f. *Select a pilot project for demonstrating the application of a precautionary approach to environmental decisions and define the scope of the pilot project by December 31, 2004*
- g. *Develop and implement the Precautionary Applications pilot project during 2005*

#### 2. ~~Conduct-Develop and Implement~~ Cumulative *Environmental Hazards, Exposures, and Health Risks Impacts Reduction Plan (CHIRP)* Pilot Projects and Develop Guidance ~~on~~ *and Protocols for Cumulative Impacts Analysis, Prevention, and Reduction*

- a. Convene ~~CHIRP~~ *Cumulative Environmental Hazards, Exposures, and Health Risks* Workgroup *(a.k.a., the Cumulative Impacts Work Group) by September 30, 2004*
- b. Inventory current cumulative ~~health~~ impacts studies, *protocols*, and tools, *including an analysis of whether and how cumulative impact assessments are considered when issuing, modifying, and renewing environmental permits, by April 22, 2005*
- c. *Identify and issue a report on the limitations of Cal/EPA's ability to measure and track environmental hazards, exposures, and health risks by April 22, 2005*
- ed. Develop a common, objective definition for cumulative impacts to be used by Cal/EPA and criteria for pilot projects *by January 31, 2005; until a new definition is*

*developed, define cumulative impacts as “the total burden of all emissions and discharges in a geographical area,” as recommended by the Cal/EPA Advisory Committee on Environmental Justice*

- de.* Identify and assess cross-media coordination projects for EJ cumulative impacts potential *by April 22, 2005*
- ef.* Select 3 pilot projects (Northern California, Southern California, and Sierra Nevada Region) *to demonstrate protocols for analyzing cumulative impacts and proposing pollution prevention and reduction alternatives by June 30, 2005*; define scope of pilot projects *by September 30, 2005*
- fg.* Develop, ~~and implement,~~ *and complete CHIRP for* each pilot project *by June 30, 2006*
  - (1) Establish baseline, goals and objectives
  - (2) Define cumulative ~~health impacts~~ *environmental hazards, exposures, and health risks*
  - (3) Develop strategies, actions, implementation mechanism, measures and timeframes
  - (4) Monitor implementation and report progress
- gh.* Evaluate CHIRP pilot projects and provide recommendations *by September 30, 2006*
  - (1) CHIRP effectiveness in pilot project areas
  - (2) Transferability of strategies to other communities
  - (3) Definitions and procedures for cumulative impacts analysis by Cal/EPA
- hi.* ~~Develop-Identify priorities and develop~~ Cal/EPA guidance ~~on and protocols for~~ cumulative impacts analysis, *prevention, and reduction, including the consideration of cumulative impacts in the issuance, modification, and renewal of environmental permits; develop and adopt* recommended implementation options (e.g., regulation, legislation, etc.) *by December 31, 2006*

### **3. Improve Tools for Public Participation, Community Capacity Building, and Communication**

- a. Develop agency-wide public participation guidelines *by December 31, 2004, including a comparison of current practices and the identification of minimum standards for public participation programs at Cal/EPA*; update annually as necessary *based on a performance review using criteria recommended by the Cal/EPA Advisory Committee on Environmental Justice*
- b. Develop common definitions *by January 1, 2005*
- c. Establish agency-wide translation contract *by September 30, 2004*
- d. Secure funds and implement Cal/EPA EJ Small Grants Program *by January 1, 2005*
- e. Identify opportunities to address EJ in existing Cal/EPA loan and grant programs *by September 30, 2004*
- f. Improve Cal/EPA EJ Web page *by April 22, 2005* to provide:
  - (1) EJ clearinghouse, with collections of stories from stakeholders on community EJ issues, successes and problems
  - (2) Grants and other funding sources to address EJ

- (3) Links to information in Spanish and other languages, including health information, environmental pollutant emission/release data, fish advisories, etc.
- (4) All public education materials currently being translated or could be translated
- (5) Ensure tools available on EJ Website (e.g., M. Firebaugh Community book regarding parks)
- (6) *Data on environmental assets and liabilities where people live, learn, work, and play*
- (7) *Information on environmental permits, including notices of permit applications, compliance history, enforcement actions, and requests for variances from permit conditions*
- (8) *Protocols for resolving complaints*
- (9) *A directory of public participation specialists at Cal/EPA*
- g. Provide technical assistance to community group representatives and other interested stakeholders*

#### **4. Integrate EJ Into Other Components of the Environmental Action Plan**

- a. Get gross-polluting vehicles off the road now
  - (1) Strong enforcement *and funding* to reduce emissions from diesel trucks/buses
  - (2) Expand "scrappage" programs (e.g., expand program to establish priority to most affected communities)
- b. Restore our urban environments
  - (1) Develop an Infill Incentives Package
  - (2) Resolve impediments to complete cleanup of Brownfield sites
- c. Focus on children's health
  - (1) Inventory projects to improve air quality *along-by addressing stationary and mobile pollution sources, including those near freeways, ports, rail yards, airports, warehouses and other distribution centers, metal plating facilities, dry cleaners, printers, auto body shops, and others*
  - (2) Direct water/park bond funds to give priorities to projects that reduce childhood asthma
- d. Tough enforcement of existing laws; enforcement settlements to provide direct environmental improvement *in the most heavily impacted communities* through supervised projects

#### **5. Ensure Meaningful Public Participation in Implementing EJ Action Plan**

- a. Continue meetings and teleconferences with community groups
- b. Participate in *at least three* EJ Toxics Tours *per year*
- c. Provide triennial update to the Legislature on EJ implementation progress
- d. Provide *annual* update to and obtain input from *Cal/EPA Advisory Committee on Environmental Justice and other* EJ stakeholders on key action plan components
- e. Include members of the Cal/EPA Advisory Committee on Environmental Justice on all EJ Action Plan work groups*

*f. Convene meetings of the Cal/EPA Advisory Committee on Environmental Justice  
no less frequently than once every 6 months*

## NOTES ON SUGGESTED REVISIONS TO EJ ACTION PLAN

**Joe Lyou**  
**California Environmental Rights Alliance**  
**July 1, 2004**

While many of the suggested revisions to the Cal/EPA EJ Action Plan need no explanation, I provide here background information on my reasons for recommending changes to certain key items.

### Deadlines

I have included deadlines to establish a schedule for implementation of the EJ Action Plan and to provide stakeholders assurances about when the proposed tasks will be completed.

### Report on Assumptions and Limitations of Risk Assessments (Item 1.d.)

A report on the assumptions used in, and the limitations of, risk assessments will provide an important foundation for the adoption of precautionary approaches by Cal/EPA.

### Precautionary Applications Pilot Project (Item 1.f. and 1.g.)

A pilot project on the application of a precautionary approach will demonstrate how and why Cal/EPA can and should use precaution in its programs and decision-making.

### Revision of Use of Term “Cumulative Health Impacts” (Item 2)

I have change the reference to “cumulative health impacts” to “cumulative environmental hazards, exposures, and health risks.” This change is consistent with the approach agreed upon by participants in the California Air Resources Board’s EJ Stakeholders Group. The use of “cumulative health impacts” may give people the misimpression that community members must demonstrate adverse health impacts prior to Cal/EPA taking any action to reduce cumulative hazards, exposures, and health risks.

*Environmental hazards* can be informally defined as the potential or actual release of pollutants. The SB 702 Expert Working Group on Environmental Health Tracking has formally defined them as “chemicals, physical agents, biomechanical stressors, and biological toxins that are present in the environment and that have a known or potential impact on human health.”<sup>1</sup> The SB 702 Expert Working Group defined *environmental exposures* as that which occurs when

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<sup>1</sup> See SB 702 Expert Working Group report, p. 2, available at [www.catracking.com](http://www.catracking.com).

individuals come in contact with environmental hazards. Exposures can be measured and estimated through environmental and biological monitoring.

Report on the Limitations on Our Ability to Measure and Track Environmental Hazards, Exposures, and Health Risks (Item 2.c.)

A report on the limitations on our ability to measure and track environmental hazards, exposures, and health risks will provide a basis for identifying potential obstacles associated with the analysis, prevention, and reduction of cumulative impacts. The report will identify needed changes in the way we measure and track sources of pollution in heavily impacted communities.

Definition of Cumulative Impacts (Item 2.d.)

Consistent with the recommendations of the Cal/EPA Advisory Committee on Environmental Justice (p. 25), I suggest that Cal/EPA use this definition of cumulative impacts while in the process of developing a new and mutually acceptable definition.